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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,732	09/22/2003	Toshio Kobayashi	2038-297	6067

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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/666,732	Applicant(s) KOBAYASHI, TOSHIO	
	Examiner Elizabeth M. Cole	Art Unit 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/22/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

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1. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear whether applicant is claiming individual fibers which are bonded to each other such that an individual first fiber is bonded to an individual second fiber, or if by reciting "said second fiber is bonded to said first fiber at attaching areas formed intermittently along said first fiber and spaced apart from said first fiber between each pair of said attaching areas neighboring to each other" Applicant intends to recite that the elastic first fibers and the inelastic second fibers which make up the nonwoven fabric are bonded so that the second fibers are bonded to the first fibers which make up the nonwoven rather than one inelastic fiber being bonded to the same single one elastic fiber. The drawings do not appear to show single individual first and second fibers being bonded to only each other along the length of the fiber. Further, it is not clear what is meant by "areas neighboring to each other". Does this mean adjacent? In claim 3, the claimed fiber structure is not clear. Does claim 3 refer to a fiber having a particular cross section? In claim 4 it is not clear what is meant by a slip angle. How is the slip angle determined?

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi et al, US Patent Application Publication 2002/0061390. Kobayashi et al discloses a material comprising a nonwoven fabric which comprises first elastic fibers and second inelastic fibers. The nonwoven may be formed so that the first elastic fibers are in a first portion of the fabric and the second inelastic fibers are in a second portion of the fabric, (claim 2). See paragraph 0006. The layers are bonded so that the second fibers are bonded to the first fibers such that the length of the second fibers is longer than the distance between bonding points. See paragraphs. 0008 and 0024. The second fiber can be a single fiber.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kobayashi et al, US Patent Application Publication 2002/0061390. Kobayashi discloses a material as set forth above. Kobayashi does not disclose the slip angle of the first and second surfaces. However, since Kobayashi discloses the same structure, it is reasonable to presume that the material of Kobayashi would inherently possess the claimed slip angle.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi as applied to claims 1-2 above, and further in view of Billarant et al, U.S.

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Patent No. 6,541,403. Kobayashi discloses a material as set forth above. Kobayashi differs from the claimed invention because it does not disclose that the elastic fiber has grooves in portions of it. Billarant teaches that elastic fibers suitable for incorporation into nonwoven webs may comprise a sheath/core configuration and a plurality of grooves. The use of the sheath/core configuration and the grooves permits the fabric to be bondable but also be elastomeric. Therefore, it would have been obvious to one of ordinary skill in the art to have employed the particular fibers of Billarant as the elastic fibers in Kobayashi, motivated by the expectation that this would make the elastic fibers more easily bonded while still being elastic.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al, US Patent Application Publication 2002/0061390, in view of Welch et al, US Patent Application Publication 2002/0119722. Kobayashi discloses a material as set forth above. Kobayashi differs from the claimed invention because Kobayashi does not disclose that the elastomeric fiber is a polyurethane fiber. Welch teaches that polyurethane fibers are suitable for use as the elastic fibers in nonwoven fabric, see paragraph 0052. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed polyurethane fibers as the elastic fibers in Kobayashi, motivated by the teaching of Welch that such fibers are suitable for use in forming the elastic fibers which impart elasticity to nonwoven fabrics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

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Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c